

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WYETH,)
)
Plaintiff,)
)
v.)
)
IMPAX LABORATORIES, INC.,)
)
Defendant.)
)

**WYETH'S MOTION TO STRIKE IMPAX'S UNENFORCEABILITY AND UNCLEAN
HANDS AFFIRMATIVE DEFENSES UNDER FED. R. CIV. P. 12(f), AND TO DISMISS
IMPAX'S UNENFORCEABILITY COUNTERCLAIMS UNDER FED. R. CIV. P. 12(b)(6)**

Wyeth hereby moves to strike under Fed. R. Civ. P. 12(f) the Fourth Affirmative Defense of Impax Laboratories, Inc. ("Impax"), alleging that the patents-in-suit are unenforceable due to unclean hands. (D.I. 7 at 7, ¶ 47). Wyeth further moves to dismiss under Fed. R. Civ. P. 12(b)(6) Impax's Counterclaims seeking a declaration that the patents-in-suit are unenforceable. (*Id.* at 10, ¶¶ 67-69). The grounds for this motion are set forth in Wyeth's opening brief, filed herewith.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Karen Jacobs Louden

Jack B. Blumenfeld (#1014)
Karen Jacobs Louden (#2881)
klouden@mnat.com
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
Attorneys for plaintiff Wyeth

May 12, 2006
520119

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on May 12, 2006 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing(s) to the following:

Mary B. Matterer
MORRIS, JAMES, HITCHENS & WILLIAMS, LLP

I also certify that copies were caused to be served on May 12, 2006 upon the following in the manner indicated:

BY HAND

Mary B. Matterer
Morris, James, Hitchens & Williams
222 Delaware Avenue
P.O. Box 2306
Wilmington, DE 19899

BY FEDERAL EXPRESS/SATURDAY DELIVERY

M. Patricia Thayer
John M. Benassi
Jessica R. Wolf
Heller Ehrman LLP
4350 La Jolla Village Dr.
San Diego, CA 92102

/s/ Karen Jacobs Louden
klouden@mnat.com